

The Honorable Barbara J. Rothstein

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

D.S. by and through her next friend TARA URS; D.Y. by and through his next friend JULIE KELLOGG-MORTENSEN; H.A. by and through his next friend KRISTEN BISHOPP; and DISABILITY RIGHTS WASHINGTON, a nonprofit membership organization for the federally mandated Protection and Advocacy Systems,

Plaintiffs,

V.

WASHINGTON STATE
DEPARTMENT OF CHILDREN,
YOUTH, AND FAMILIES; and ROSS
HUNTER, in his official capacity as
Secretary of the Washington State
Department of Children, Youth, and
Families.

Defendants.

NO. 2:21-cv-00113-BJR

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

1 This Court has considered Plaintiffs' Motion for Preliminary Injunctive Relief, and the
2 pleadings and other submissions on file herein, including the arguments made at hearing on
3 June 7, 2021 and the submissions of the parties as directed by the Court. Dkt. Nos. 57, 58.
4 It is, therefore,

5 ORDERED that Plaintiffs' Motion for Preliminary Injunction is GRANTED IN PART
6 as follows:

- 7 1. No later than September 1, 2021, Defendants will submit a proposed plan for
8 Plaintiffs' review for how Defendants will cease by November 1, 2021 using hotels,
9 motels, or DCYF office space for youth in Department of Children, Youth, and
10 Families (DCYF) custody under Wash. Rev. Code §13.34 during overnight hours.
- 11 2. No youth in DCYF custody under Wash. Rev. Code §13.34 may spend the night
12 hours (between 10 pm and 6 am) in cars (not including transport time).
- 13 3. Subject to the availability of hotel space, appropriate to the youth's health, welfare,
14 and safety needs, no youth in DCYF custody under Wash. Rev. Code §13.34 may
15 spend the night hours (between 10 pm and 6 am) in DCYF offices, with the following
16 exception: in the event a youth returns to or enters DCYF custody between these
17 hours, best efforts must be made to provide the youth with a hotel room to sleep for
18 the remainder of the night. If this is not possible or some other emergency arises, a
19 youth spending the night in a DCYF office must be provided with a pillow, blanket,
20 and cot or other equivalent bedding.
- 21 4. Prior to November 1, 2021, subject to the availability of hotel space appropriate to
22 the youth's health, welfare, and safety needs, youth in DCYF custody under Wash.
23 Rev. Code §13.34 who have experienced hotel stays for five consecutive nights or
24 more must be provided the same hotel and the same room from night to night
25 beginning on the sixth consecutive night, and will be permitted to leave their
26 belongings in their rooms during the day, unless DCYF has identified a placement

for the youth for the following night. Defendants shall be deemed to meet the requirements of this Paragraph 4 as to each youth by offering a placement to the youth in a DCYF-approved relative placement, a DCYF-approved “other suitable placement” under Wash. Rev. Code §13.34, or an in-state licensed foster care placement.

5. If a youth in DCYF custody under Wash. Rev. Code §13.34 is required to spend any night hours in an office or a car (not including transport time), or if a youth refuses a placement, an incident report adequately describing the circumstances of such incidents, will be generated and notice of the incident will be provided to the youth’s attorney or GAL/CASA. If the youth does not have an attorney or GAL/CASA, notice shall be provided to Plaintiffs’ counsel at Disability Rights Washington.
6. Within two days of a youth’s refusal of a foster care placement, the assigned case worker and/or supervisor shall conduct a Family Team Decision Meeting (FTDM) inviting the youth, the youth’s attorney and GAL/CASA, and the youth’s family (unless the youth objects to the family being present due to specific safety concern) to seek a resolution.
7. For any youth who has been in an office or hotel stay, or a combination of office, hotel, and foster care placement intended to be night to night for five consecutive nights, DCYF must schedule a Shared Planning Meeting (SPM) for the earliest practicable date (but no later than three business days after the fifth night) and must invite the youth, the youth’s attorney and GAL/CASA, the youth’s family (unless the youth objects to the family being present due to specific safety concern), in addition to including the assigned case worker and the supervisor, placement desk staff, and other regional staff as appropriate. If the youth continues to be placed in hotel or office stays, an SPM shall be held every ten days thereafter until the youth is reunified with family or a long-term placement is identified. An SPM shall not be required

1 when (1) the youth has rejected multiple placements authorized under Wash. Rev.
2 Code §13.34; (2) the Department determines and documents that the next SPM would
3 not be productive; and (3) the youth and youth's attorney are notified of the
4 Department's determination and do not object.

- 5 8. Defendants shall explore ways to lessen the impact to youths in DCYF custody under
6 Wash. Rev. Code §13.34 placed in exceptions to placement, including meeting
7 dietary needs of youths, reviewing training of DCYF staff supervising youth in
8 exceptions to placement, and providing adequate support and programming to such
9 youths in exceptions to placement.
- 10 9. DCYF shall meet the needs of youth in DCYF custody under Wash. Rev. Code
11 §13.34 while they are experiencing placement exceptions and night to night stays,
12 including planning for reasonable accommodations and crisis response.
- 13 10. Receiving field offices must maintain and offer healthy food and beverages
14 appropriate for a youth's dietary needs.
- 15 11. Youth in DCYF custody under Wash. Rev. Code §13.34 who are in hotel, office, or
16 a combination of hotel, office, and night to night stays must be transported to school
17 or provided with quiet office space and staffing to support engagement in online
18 school and the youth's IEP, if applicable. When youth are not in school, they shall be
19 provided with age-appropriate activities.
- 20 12. This Order shall remain in effect until June 30, 2022 or until further order of this
21 Court. This Order may be amended upon agreement of the parties and approval of
22 the Court or on motion for good cause shown after meet-and-confer by the parties.
23 Parties must meet and confer prior to filing any motion to enforce compliance with
24 this Order.

1 13. Defendants shall file a notice certifying that they have complied with the provisions
2 of this Order by July 30, 2021, and subsequently submit a report to this Court every
3 six months regarding its compliance.

4 DATED this 29th day of June, 2021.

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7 HONORABLE BARBARA J. ROTHSTEIN
8 UNITED STATES DISTRICT JUDGE

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